REMARKS

Claims 7-13 are currently pending. Claims 7, 11, 12, and 13 are amended. No new matter is presented. In view of the above amendments and the following remarks, Applicants request the favorable consideration and allowance of claims 7-13.

Claims 11-13 are rejected under 35 U.S.C. 101 because the claimed subject matter is directed to non-statutory subject matter. Claims 11-13 are amended to more clearly recite the present invention. Therefore, Applicants request the withdrawal of the rejection of claims 1-13.

Claims 7-13 are rejected under 35 U.S.C. 102(a) as being anticipated by Sinclair et al. (U.S. Patent Publication No. 2002/0052551). The Examiner takes the position that Sinclair teaches or suggests all the features recited in claims 7-13. Applicants respectfully disagree.

Sinclair discloses a system and method for screening and tracking ophthalmic disease in a plurality of patients. The system includes a screening subsystem that comprises a non-mydriatic camera for obtaining digital images of eyes of the patients, a central database for storing the digital images of the yes of patients as well as patient demographic data and related health data, and a central server which executes retinopathy grading algorithms.

In other words, Sinclair discloses the use of a non-mydriatic camera for obtaining digitized images of patient' eyes, a central database for storing the digitized images of the patients' eyes, demographic data and health-related data. In Sinclair, a diagnosis and degree for severity are assigned to an image in the central database. As a result, all images of a determined diagnosis or of a determined degree of severity can be retrieved from the database. A correspondence is then established between the actual image and the images from the database so that the diagnosis and degree of severity are determined for the actual image.

It is respectfully submitted that Sinclair fails to teach or suggest all the features recited

in claims 7 and 11. Specifically, Sinclair fails to teach or suggest that <u>a diagnosis by an operator is not used in carrying out a similarity analysis.</u> In contrast to the teachings of Sinclair, the claimed invention provides that the digital images taken of the eyes as well as the images existing in a database are analyzed and compared by means of purely image-based parameters. Accordingly, a correct diagnosis and assignment of a degree of severity are not necessary in the claimed invention. For instance, images with an unclear diagnosis but which appear similar in terms of pathological changes can also be recognized in the claimed invention, whereas this would not be possible in the system and method disclosed by Sinclair. It should be noted that in the system of Sinclair, a diagnosis of the image data is necessary, wherein in the claimed invention, there is no need for a diagnosis on the part of the operator. Instead, the image data is compared by means of the characteristic features present in the images.

Thus, instead of diagnosis by the operator, which always represents a source of subjective error, the analysis and comparison of images in the claimed invention is carried out in a purely computer based manner without being influenced by the operator. In view of this distinction, claims 7 and 11 are amended to more clearly recite the features of the claimed invention. Thus, it is submitted that Sinclair fails to teach or suggest <u>a diagnosis by an operator is not used in carrying out a similarity analysis.</u> Accordingly, Applicants request the withdrawal of the rejections of 7 and 11.

Claims 8-10, 12, and 13 are dependent upon claims 7 and 11. It is submitted that claims 8-10, 12, and 13 recite patentable subject matter for at least the reasons mentioned above. Accordingly, Applicants request the withdrawal of the rejection of claims 8-10, 12, and 13 under 35 U.S.C. 102(a).

In view of the above amendments and remarks, it is respectfully submitted that the claims now clearly recite the patentable features of the present invention. Accordingly, reconsideration and withdrawal of the outstanding rejections and an issuance of a Notice of Allowance is respectfully requested. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,

By: _____
Gerald H. Kiel
Reg. No. 25,116

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REED SMITH LLP
599 Lexington Avenue
New York, NY 10022-7650
GHK:BS:aw